

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, January 9, 2025 2:17 PM
To: Busch, Benjamin <bbusch@ncdoj.gov>
Cc: ncitlb@caphill.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

Ben:

Thank you for your email. Please be advised that the same issues exist in Paragraphs (b)(2) and (c)(2).

Would you like to change those as well or is this indeed the “final” rule for consideration?

Please let me know by COB Friday.

Thank you.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Catherine Lee <CLee@ncbfs.org>
Sent: Thursday, January 9, 2025 1:10 PM
To: Peaslee, William W; Amy D. Acord; Rules, Oah
Cc: Burgos, Alexander N
Subject: RE: [External] RE: BFS Rules
Attachments: 01.2024 Board of Funeral Service Request for Changes Sec 0800 (with responses).docx; 21 NCAC 34B .0801 (with RFC).docx; 21 NCAC 34B .0802 (with RFC).docx; 21 NCAC 34B .0803 (with RFC).docx; 21 NCAC 34B .0804 (with RFC).docx; 21 NCAC 34B .0805 (with RFC).docx; 21 NCAC 34B .0806 (with RFC).docx

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Good afternoon. Thank you for the opportunity to provide the attached responses to the request for changes to Rules 21 NCAC 34B .0801 through .0806. We appreciate your help to make these rules clearer.

Catherine E. Lee
General Counsel
North Carolina Board of Funeral Service
1033 Wade Ave, Ste 108
Raleigh, NC 27605
Telephone: (919) 341-2639

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, December 30, 2024 11:18 AM
To: Amy D. Acord <AAcord@ncbfs.org>
Cc: Catherine Lee <CLee@ncbfs.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: BFS Rules

Good morning,

Attached please find the request for changes to the Board's rules for consideration at the January RRC meeting.

As always if you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

From: Catherine Lee <CLee@ncbfs.org>

Sent: Friday, December 27, 2024 5:01 PM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Amy D. Acord <AAcord@ncbfs.org>

Subject: [External] RE: BFS Rules

You don't often get email from clee@ncbfs.org. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Mr. Peaslee –

Thank you for the email regarding the formatting of Rules 21 NCAC 34B .0801 through .0806. We have a couple of follow-up questions below:

- Thank you for reminding us to highlight the changes that we have made to the text that was originally published in the NC Register for Rules .0802; .0803; .0805; and .0806. We will do so and re-submit. Could you help me understand, though, why the full text should remain underlined in these rules and be classified as an “amendment?” Our understanding was that 26 02C .0405(b) should be followed in identifying the changes, through the use of strikethroughs and underlines. If we had misinterpreted, though, we’ll be glad to fix immediately.
- Thank you for prompting us to include the citation to G.S. 90-210.23 in our History Note. We had referenced GS 90-210.25(c)(10), which provides for the specific authority to make rules related to GS 90-210.25(c), but the Board will certainly reference G.S. 90-210.23 as well. When we so revise, is it your preference that we re-submit with only the new citation underlined and highlighted, and to remove the underlining for the remaining text (in accordance with 26 NCAC 02C .0405(b))?
- When we resubmit these rules, is it your preference that we email them directly to you and Mr. Burgos? Or, should we file online?

Enjoy your weekend.

Catherine E. Lee
General Counsel
North Carolina Board of Funeral Service
1033 Wade Ave, Ste 108
Raleigh, NC 27605
Telephone: (919) 341-2639

From: Amy D. Acord <AAcord@ncbfs.org>
Sent: Friday, December 27, 2024 1:38 PM
To: Catherine Lee <CLee@ncbfs.org>
Subject: Fwd: BFS Rules

Sent from my iPhone

Begin forwarded message:

From: "Peaslee, William W" <bill.peaslee@oah.nc.gov>
Date: December 27, 2024 at 12:08:12 PM CST
To: "Amy D. Acord" <AAcord@ncbfs.org>
Cc: "Burgos, Alexander N" <alexander.burgos@oah.nc.gov>
Subject: RE: BFS Rules

I would also add that it appears to me that the Board's rulemaking authority is from G.S. 90-210.23 which is absent from the history notes in all the rules.

William W. Peaslee
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Bill.Peaslee@oah.nc.gov

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From: Peaslee, William W
Sent: Friday, December 27, 2024 1:02 PM
To: Amy D. Acord <aacord@ncbfs.org>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: BFS Rules
Importance: High

Good afternoon

A quick review of the rules which the Board adopted for RRC consideration reveals that the rules have not been properly formatted.

For instance, Rule 34B .0802 indicates that this is an "adoption" (Line 1.) If that were the case then all of the language would need to be underlined. I suspect it is an "amendment." Further the rule indicates that the rule was "adopted with changes." However the changes from that which was published have not been highlighted.

Please review [26 NCAC 02C .0108](#) and [26 NCAC 02C .0405](#) and resubmit the rules as soon as possible.

Thank you in advance for your prompt attention to this matter.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
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Bill.Peaslee@oah.nc.gov

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Electronic messages sent to or from this account may be subject to public inspection and copying under Chapter 132 of the N.C. General Statutes. Opinions expressed by Board Staff in this correspondence or any attachments hereto have not necessarily been reviewed, approved, or otherwise adopted by the Board, nor are they binding upon the Board. The purpose of such opinions is to help licensees of the Board comply with the Board's laws and rules, based solely on the facts provided by Board Staff. Please be advised that these opinions are subject to change. If you disagree with the Board Staff's opinion, you may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the N.C. General Statutes.

Electronic messages sent to or from this account may be subject to public inspection and copying under Chapter 132 of the N.C. General Statutes. Opinions expressed by Board Staff in this correspondence or any attachments hereto have not necessarily been reviewed, approved, or otherwise adopted by the Board, nor are they binding upon the Board. The purpose of such opinions is to help licensees of the Board comply with the Board's laws and rules, based solely on the facts provided by Board Staff. Please be advised that these opinions are subject to change. If you disagree with the Board Staff's opinion, you may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the N.C. General Statutes.

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "aAssociation"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day;;and"
 - Right: "~~day;~~ day;and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0801

DEADLINE FOR RECEIPT: January 14, 2024

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Lines 12-15 and 23-24: What is the difference between a “licensee” and a “permit holder”?

A “licensee” includes:

(1) individuals who are “permit holders” – ie those to whom a Transporter Permit has been issued by the Board, as defined by GS 90-210.25(c)(4);

(2) individuals to whom a funeral director or funeral service license has been issued by the Board – because the “practice of funeral service” as defined by GS 90-210.20(k) includes removal and transportation; and

(3) individuals who are exempt from obtaining a Transporter Permit under GS 90-210.25(c)(5) but are subject to Board rules governing the proper handling, care, or transportation of dead human bodies.

A “permit holder” is an individual who holds a Transporter Permit, as defined by GS 90-210.25(c)(4).

Page 1, Line 18: Consider adding “pursuant to G.S. 130A-382.

Done

Page 1, Lines 31-32: Add a citation to the rule which establishes the permit process.

Done

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0802

DEADLINE FOR RECEIPT: January 14, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Lines 31: What is an "adverse action"?

This language is duplicative of subsection 13 and has been removed

Page 1, Line 34: It is unclear what "misclassification" the Board is referring to? Workers' comp?

We have revised to include the definition of employee misclassification, as set forth in GS 143-786(a)(5).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0803

DEADLINE FOR RECEIPT: January 14, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Lines 31: What is an "adverse action"?

This language is duplicative of subsection 11 and has been removed

Page 1, Line 34: It is unclear what "misclassification" the Board is referring to? Workers' comp?

We have revised to include the definition of employee misclassification, as set forth in GS 143-786(a)(5).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0804

DEADLINE FOR RECEIPT: January 14, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 5: Change “must” to “shall.”

Done

Line 7: Who is attesting? The applicant? The training course provider? Consider: “

Revised to clarify that the permit holder is attesting.

Line 10: Define or strike “prominently.”

The term “prominently” has been removed.

Line 14: Who makes the designation whether a contained is “designed for common carrier transportation” and by what process?

The term “designated for common carrier transportation” has been removed.

Lines 16-18: Explain the Board’s authority to permit the taking of personal property with the leave of the named officials other than the decedent’s family.

Clarified that use of personal belongings during removal and transportation cannot be contrary to the directives of a family member, OCME, an ME, or a law enforcement official (for example, if the location of origin is a crime scene, the transporter must comply with directives to prevent evidence tampering).

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0805

DEADLINE FOR RECEIPT: January 14, 2024

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 8: How does one tell if a removal vehicle was so “designed.”

Revised to remove the word “designed”

Line 12: Who makes the designation whether a contained is “designed for common carrier transportation” and by what process?

Revised to define container as one that is commercially manufactured for the storage of dead human bodies

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0806

DEADLINE FOR RECEIPT: January 14, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 16: Suspected by whom?

Clarified that this provision applies only to locations designated as a crime scene by a law enforcement official.

Line 28: Define "records."

Revised to read "any written documentation"

Line 29: What does the Board mean by "secured"?

Revised to read "in physical contact with"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 30, 2024

21 NCAC 34b .0801 is adopted **with changes** as published in 39:02 NCR 80-84

SECTION .0800 – TRANSPORTATION OF DEAD HUMAN BODIES

21 NCAC 34B .0801 DEFINITIONS

For purposes of Section .0800, the following definitions shall apply:

- (1) “Decedent” shall mean any dead human body or remains believed to be human.
- (2) “Disinfect” shall mean a process that eliminates pathogenic microorganisms on inanimate objects using liquid chemicals or wet pasteurization.
- (3) “Impervious” shall mean constructed from material that does not allow another substance to pass through or to penetrate the material.
- (4) “Licensee” shall mean an individual or entity holding any type of licensure from the Board that allows the individual or entity to engage in the removal or transportation of a dead human body. As used in this section, “licensee” shall include employees or authorized representatives of any person or entity exempt from obtaining a transporter permit pursuant to G.S. 90-210.25(c)(5).
- (5) “Location of origin” shall mean the location from which the licensee is authorized to transport or remove a dead human body.
- (6) “ME” shall mean a local Medical Examiner appointed by the Office of the Chief Medical **Examiner. Examiner, pursuant to G.S. 130A-382.**
- (7) “NC OSH” shall mean the North Carolina Occupational Safety and Health Division, North Carolina Department of Labor.
- (8) “OCME” shall mean the Office of the Chief Medical Examiner.
- (9) “OSHA” shall mean the federal Occupational Safety and Health Administration.
- (10) “Permit holder” shall mean an individual who holds a permit issued by the Board to engage in the removal or transportation of a dead human body, as defined in G.S. 90-210.25(c)(3).
- (11) “Removal vehicle” shall mean a vehicle of a size, dimensions, and specifications capable of removing and transporting, in accordance with G.S. 90-210.25(c)(9), at least one adult human body measuring up to seven feet in length and three hundred pounds in weight.
- (12) “State” shall mean the State of North Carolina.
- (13) “Removal or Transportation” shall mean the removal or transportation of a dead human body, or part thereof.
- (14) “Transporter Permit” shall mean a permit issued by the Board **pursuant to 21 NCAC 34B .0802** to engage in the removal or transportation of a dead human body, as defined in G.S. 90-210.25(c)(3).
- (15) “Transportation Service” shall mean any business that employs or contracts with individuals to engage in the removal or transportation of a dead human body unless otherwise exempt pursuant to G.S. 90-210.25(c)(5) and (6).

1 *History Note:* *Authority* G.S. 90-210.23(a); G.S. 90-210.25(c)(10)
2 Eff.

21 NCAC 34B .0802 is adopted **with changes** as published in 39:02 NCR 80-84 as follows:

21 NCAC 34B .0802 INITIAL PERMIT APPLICATION FORM

(a) Pursuant to G.S. 90-210.25(c)(7), any person desiring to obtain a Transporter Permit from the Board shall make application to the Board. Applications not completed within ninety (90) days of submission to the Board shall be denied. Application forms and instructions may be found on the Board's website at <https://ncbfs.org>.

(b) All applications for a Transporter Permit shall contain the following:

- (1) The applicant's full name;
- (2) The applicant's physical and mailing address of residence;
- (3) The name and address of the Transportation Service, if any, for which the applicant will work;
- (4) The applicant's work phone number, home phone number, and cell phone number;
- (5) The applicant's social security number and sex;
- (6) The applicant's date and place of birth;
- (7) The applicant's email address;
- (8) A copy of the applicant's valid driver's license issued by the State;
- (9) The make, model, year, and license plate number of the removal vehicle to be used by the applicant;
- (10) A copy of all liability insurance required for the registration of the removal vehicle to be used by the applicant;
- (11) A copy of professional liability insurance covering the applicant's acts and omissions while engaging in the removal or transportation, with liability limits not less than required by GS 90-210.25(c)(7);
- (12) Whether the applicant has been convicted of any felony or misdemeanor crimes and, if so, a statement providing the jurisdiction, charge, and disposition of each conviction;
- (13) Whether the applicant has had an occupational or business license denied, suspended, or revoked by any local, state, or federal agency and, if so, a statement providing the reason for the denial and the date, location, and circumstances of any violation that led to action against the applicant, the terms of any discipline imposed by the licensing authority, and whether said terms have been satisfied;
- (14) Whether OCME ever has terminated the applicant's ability to provide removal or transportation services on behalf of OCME and, if so, the reasons for said termination, if known;
- ~~(15) Whether the applicant has been the subject of adverse action by any local, state, or federal agency and, if so, a statement giving details as the location, date, type of adverse action initiated, and the disposition of the adverse action;~~
- ~~(16)~~(15) Whether the applicant has been subject to any investigation for employee misclassification **as defined by G.S. 143-786(a)(5)** in the preceding two (2) years;

1 ~~(18)~~(16) The applicant's signature to certify under oath that he or she has prepared the application and has
2 read the answers; that the information provided in the application is true; and that he or she has read
3 the NC Industrial Commission Public Notice Statement;

4 ~~(19)~~(17) The applicant's signature to certify under oath that he or she has read and understands the statutes
5 and rules relating to the removal or transportation, as well as the standards of OSHA for universal
6 precautions and blood-borne pathogens, 29 C.F.R. 1910.1030; and

7 ~~(20)~~(18) The application fee, as prescribed by G.S. ~~90-210.25(e)(7)~~ ~~90-210.25(c)(8)~~ and 21 NCAC 34A
8 .0201.

9 (c) Upon receipt of an applicant's application for a Transporter Permit, the Board shall provide to the applicant
10 instructions on how to submit his or her fingerprints for a criminal background check, in accordance with GS 90-
11 210.25(a)(5)(h). The applicant shall sign and return to the Board a form provided by the Board, consenting to the
12 check of the criminal records and to the use of his or her fingerprints and other identifying information required by
13 the State or national repositories. The applicant shall remit payment to the Board in the form of an official check,
14 money order, or cashier's check, made payable to the State Bureau of Investigation, the actual costs charged by the
15 Department of Public Safety for performing the criminal background check.

16
17 *History Note:* Authority ~~G.S. 90-210.23(a); G.S. 90-210.25(c)(7) and (10); G.S. 90-210.25(a)(5)(h)~~ ~~90-~~
18 ~~210.25(a)(5)(h)~~

19 *Eff.*

21 NCAC 34B .0803 is adopted with changes as published in 39:02 NCR 80-84 as follows:

21 NCAC 34B .0803 PERMIT RENEWAL APPLICATION FORM

(a) To renew a Transporter Permit, the permit holder shall complete and submit to the Board a renewal application on or before February 1 of each calendar year.

(b) The renewal application shall contain the following:

- (1) The permit holder's full name;
- (2) The permit holder's physical and mailing address of residence;
- (3) The name and address of the Transportation Service, if any, for which the permit holder works;
- (4) The permit holder's work phone number, home phone number, and cell phone number;
- (5) The permit holder's email address;
- (6) A copy of the permit holder's valid driver's license issued by the State;
- (7) A copy of all liability insurance required for the registration of the removal vehicle to be used by the permit holder;
- (8) A copy of professional liability insurance covering the permit holder's acts and omissions while engaging in the removal or transportation, with liability limits not less than required by GS 90-210.25(c)(7);
- (9) Whether the make, model, year, and license plate number of the permit holder's removal vehicle has changed since the previous renewal year and, if so, the make, model, year, and license plate number of the removal vehicle currently used by the applicant;
- (10) Whether the permit holder has been convicted of any felony or misdemeanor crimes since the previous renewal application was submitted and, if so, a statement providing the jurisdiction, charge, and disposition of each conviction;
- (11) Whether the permit holder has had an occupational or business license denied, suspended, or revoked by any local, state, or federal agency since the previous renewal application was submitted and, if so, a statement providing the reason for the denial and the date, location, and circumstances of any violation that led to action against the permit holder, the terms of any discipline imposed by the licensing authority, and whether said terms have been satisfied;
- (12) Whether OCME ever has terminated the permit holder's ability to provide removal or transportation services on behalf of OCME and, if so, the reasons for said termination, if known;
- ~~(13) Whether the permit holder has been the subject of adverse action by any local, state, or federal agency since the previous renewal application was submitted and, if so, a statement giving details as the location, date, type of adverse action initiated, and the disposition of the adverse action;~~
- ~~(14)~~(13) Whether the permit holder has been subject to any investigation for employee misclassification as defined by G.S. 143-786(a)(5) since the previous renewal application was submitted;

1 ~~(15)~~(14) The permit holder's signature to certify that he or she has prepared the application and has read the
2 answers; that the information provided in the application is true; and that he or she has read the NC
3 Industrial Commission Public Notice Statement;

4 ~~(16)~~(15) The permit holder's signature to certify under oath that he or she has read and understands the
5 statutes and rules relating to the removal or transportation, as well as the standards of OSHA for
6 universal precautions and blood-borne pathogens, 29 C.F.R. 1910.1030;

7 ~~(17)~~(16) The permit holder's consent to a check of the permit holder's criminal background by the Board;
8 and

9 ~~(18)~~(17) The application fee, as prescribed by G.S. ~~90-210.25(e)(7)~~ ~~90-210.25(c)(8)~~ and 21 NCAC 34A
10 .0201. If the application fee is dishonored by the drawee bank for any reason, the Board shall
11 suspend the Transporter Permit until the renewal fees and non-sufficient fund charges are paid.

12
13 *History Note:* Authority G.S. ~~90-210.23(a)~~; 90-210.25(c)(8) and (10); ~~G.S.~~ 90-210.25(a)(5)(h).
14 *Eff.*

21 NCAC 34B .0804 is adopted with changes as published in 39:02 NCR 80-84 as follows:

21 NCAC 34B .0804 STANDARDS FOR REMOVAL AND TRANSPORTATION OF DEAD HUMAN BODIES

(a) Removal and transportation ~~must shall~~ be conducted in accordance with the standards of OSHA for universal precautions and blood-borne pathogens set forth at 29 C.F.R. 1910.1030. Before engaging in removal or transportation, a permit holder shall attest in writing ~~provide an attestation~~ to the Board that he or she has taken a training course on universal precautions and blood-borne pathogens offered by OSHA or NC OSH.

(b) Upon arrival at a location to engage in removal or transportation, a permit holder shall:

- (1) ~~Prominently display~~ Display on the dashboard of ~~in~~ the removal vehicle the permit issued by the Board allowing the removal or transportation service;
- (2) Verbally identify himself or herself as a permit holder;
- (3) Identify the entity for whom he or she is engaged in removal or transportation.

(c) Decedents shall be placed face up when secured in the removal vehicle or into a casket or a container that is commercially manufactured for the storage of dead human bodies. ~~container designated for common carrier transportation.~~

(d) Belongings found at the location of origin (such as tools, bedding, or towels that are not supplied by the licensee) shall not be used to assist with a decedent's removal or transportation if such use is contrary to the directives of the decedent's family members, OCME, ME, or a law enforcement official. ~~transportation, unless permission for such use is granted by the decedent's family members, OCME, an ME, or a law enforcement official.~~

History Note: Authority G.S. 90-210.23(a); 90-210.25(c)(9), (10) and (14)
Eff.

21 NCAC 34B .0805 is adopted with changes as published in 39:02 NCR 80-84 as follows:

21 NCAC 34B .0805 REQUIRMENTS FOR REMOVAL VEHICLES

(a) Licensees shall conduct removal or transportation in a removal vehicle. The removal vehicle shall have a cargo bay that:

(1) Has curtains or tinting on any windows displaying the cargo bay, to obscure the decedent from public view;

(2) ~~Is designed to prevent~~ Prevents co-mingling or shifting of the decedent while in transit; and

(3) Has flooring that is impervious.

(b) The removal vehicle used by a licensee shall contain the following when removal or transportation is performed:

(1) Mortuary cot, ambulance cot, casket, or container that is commercially manufactured for the storage of dead human bodies; designed for common carrier transportation;

(2) Pillow or head block;

(3) Sheets and cot cover;

~~(5)~~ (4) Rubber or plastic sheeting;

~~(6)~~ (5) Towels;

~~(7)~~ (6) Zippered mortuary body bag or disaster pouch;

~~(8)~~ (7) Straps;

~~(9)~~ (8) Impervious tags;

~~(10)~~ (9) Pen or marker with indelible ink;

~~(11)~~ (10) A universal precaution kit, which shall contain the following:

(A) A bio-waste bag;

(B) A heavy-duty disaster pouch;

(C) Goggles;

(D) ~~Booties;~~ Impervious foot coverings;

(E) Masks;

(D) Disposable gloves;

(F) ~~A clean or disposable apron;~~ Impervious apron or gown;

(G) Antiseptic hand cleaner;

(H) Disinfectant spray; and

(I) A first-aid kit.

(c) A licensee shall disinfect the entire interior of the removal vehicle, including the driver's cabin, as soon as reasonably possible after each removal or transportation of a decedent.

(d) A licensee shall not eat, drink, or smoke in the removal vehicle while engaged in removal or transportation.

(e) A licensee shall not stack decedents inside a removal vehicle unless using shelves designed for such purpose and capable of transporting decedents in a manner consistent with Subparagraph (a)(2) of this Rule.

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History Note: Authority G.S. 90-210.23(a); 90-210.25(c)(9) and (10)
Eff.

21 NCAC 34B .0806 is adopted with changes as published in 39:02 NCR 80-84 as follows:

21 NCAC 34B .0806 CHAIN OF CUSTODY AND CONTROL

(a) When removing or transporting a decedent from the place of the decedent's death, the location of origin, unless otherwise instructed by a law enforcement official, a licensee shall place an impervious tag on the decedent or the decedent's body bag or disaster pouch, if the decedent is so sealed therein by a law enforcement official prior to the licensee's arrival. The impervious tag shall contain the following:

- (1) The decedent name, if known. Otherwise, the word "unidentified;"
- (2) The name of the county in which the death occurred, if known;
- (3) The date on which the death occurred, if known; and
- (4) The date on which decedent was discovered.

(b) If the licensee places the decedent in a body bag or disaster pouch, the licensee shall place on the bag or pouch an impervious tag, or otherwise indelibly mark the bag or pouch, with the licensee's name and the information set forth in Paragraph (a)(1-4) of this Rule.

(c) When conducting removal or transportation at the authorization of OCME or an ME, the licensee shall not transport or remove a decedent from a location of origin that has been designated by a law enforcement official as a crime scene for which homicide is suspected as the cause of death unless the decedent has been sealed in a body bag or disaster pouch by a law enforcement official, OCME, or an ME.

(d) A licensee shall transport directly, with no intervening stops unrelated to the transportation, the decedent from the location of origin to the location requested by the individual or entity for whom the licensee has engaged in the removal or transportation. If the licensee is engaged in the removal or transportation of multiple decedents simultaneously, the licensee shall transport each decedent to its respective destination consecutively, without any intervening stops unrelated to the transportation.

(e) For each removal or transportation performed, a licensee shall give to each individual or entity for whom the removal or transportation is authorized an inventory of all personal belongings found on the decedent, if such an inventory is provided to the licensee upon removal of the decedent from the location of origin, which shall be signed by the licensee. A licensee shall not touch or take possession of any weapon, or controlled substances or paraphernalia that is found among the decedent's personal belongings.

(f) A licensee shall place records any written documentation related to the decedent for which the licensee is entrusted with custody during transportation and removal in an impervious container, if said records written documents are in physical contact with secured to the decedent.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(c)(9) and (10)
Eff.*

Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, December 30, 2024 11:18 AM
To: Amy D. Acord
Cc: Catherine Lee; Burgos, Alexander N
Subject: RE: [External] RE: BFS Rules
Attachments: 01.2024 Board of Funeral Service Request for Changes Sec 0800.docx

Good morning,

Attached please find the request for changes to the Board's rules for consideration at the January RRC meeting.

As always if you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Catherine Lee <CLee@ncbfs.org>
Sent: Friday, December 27, 2024 5:01 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Cc: Amy D. Acord <AAcord@ncbfs.org>
Subject: [External] RE: BFS Rules

You don't often get email from clee@ncbfs.org. [Learn why this is important](#)

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Mr. Peaslee –

Thank you for the email regarding the formatting of Rules 21 NCAC 34B .0801 through .0806. We have a couple of follow-up questions below:

- Thank you for reminding us to highlight the changes that we have made to the text that was originally published in the NC Register for Rules .0802; .0803; .0805; and .0806. We will do so and re-submit. Could you help me understand, though, why the full text should remain underlined in these rules and be classified as an “amendment?” Our understanding was that 26 02C .0405(b)

should be followed in identifying the changes, through the use of strikethroughs and underlines. If we had misinterpreted, though, we'll be glad to fix immediately.

- Thank you for prompting us to include the citation to G.S. 90-210.23 in our History Note. We had referenced GS 90-210.25(c)(10), which provides for the specific authority to make rules related to GS 90-210.25(c), but the Board will certainly reference G.S. 90-210.23 as well. When we so revise, is it your preference that we re-submit with only the new citation underlined and highlighted, and to remove the underlining for the remaining text (in accordance with 26 NCAC 02C .0405(b))?
- When we resubmit these rules, is it your preference that we email them directly to you and Mr. Burgos? Or, should we file online?

Enjoy your weekend.

Catherine E. Lee
General Counsel
North Carolina Board of Funeral Service
1033 Wade Ave, Ste 108
Raleigh, NC 27605
Telephone: (919) 341-2639

From: Amy D. Acord <AAcord@ncbfs.org>
Sent: Friday, December 27, 2024 1:38 PM
To: Catherine Lee <CLee@ncbfs.org>
Subject: Fwd: BFS Rules

Sent from my iPhone

Begin forwarded message:

From: "Peaslee, William W" <bill.peaslee@oah.nc.gov>
Date: December 27, 2024 at 12:08:12 PM CST
To: "Amy D. Acord" <AAcord@ncbfs.org>
Cc: "Burgos, Alexander N" <alexander.burgos@oah.nc.gov>
Subject: RE: BFS Rules

I would also add that it appears to me that the Board's rulemaking authority is from G.S. 90-210.23 which is absent from the history notes in all the rules.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Peaslee, William W
Sent: Friday, December 27, 2024 1:02 PM
To: Amy D. Acord <aacord@ncbfs.org>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: BFS Rules
Importance: High

Good afternoon

A quick review of the rules which the Board adopted for RRC consideration reveals that the rules have not been properly formatted.

For instance, Rule 34B .0802 indicates that this is an “adoption” (Line 1.) If that were the case then all of the language would need to be underlined. I suspect it is an “amendment.” Further the rule indicates that the rule was “adopted with changes.” However the changes from that which was published have not been highlighted.

Please review [26 NCAC 02C .0108](#) and [26 NCAC 02C .0405](#) and resubmit the rules as soon as possible.

Thank you in advance for your prompt attention to this matter.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
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Bill.Peaslee@oah.nc.gov

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